

Honorable Benjamin H. Settle

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JONATHAN NELSON and MARGO
NELSON, individually and on behalf of their
marital community,

PLAINTIFFS,

v.

SPECIALIZED LOAN SERVICING, LLC, a
foreign limited liability company,

DEFENDANT.

No. 3:20-cv-05461-RBL

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION TO CERTIFY
QUESTIONS TO THE WASHINGTON
SUPREME COURT AND MOTION TO
STAY PENDING CERTIFIED
QUESTIONS**

**NOTED ON MOTION CALENDAR:
October 2, 2020**

THIS MATTER came before the Court on Plaintiffs Jonathan Nelson and Margo Nelson's Motion to Certify Questions to the Washington Supreme Court and Motion to Stay Pending Certified Questions. The Court has considered Plaintiff's motion, and all subsequent related pleadings and arguments, and accordingly ORDERS that Plaintiff's motion is GRANTED.

The Court finds that the interests of comity and efficiency will be served by seeking an authoritative answer to the certified questions from the Washington Supreme Court. Because this is an issue of first expression, the Court offers the Washington Supreme Court to opportunity to answer the below certified questions.

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I. CERTIFIED QUESTIONS

The following questions are hereby certified to the Washington Supreme Court for consideration under the procedures described in Washington Revised Code section 2.60.020 and Washington Rule of Appellate Procedure 16.16:

1. Under Washington law, is a lender entitled to collect time-barred installment payments in a nonjudicial foreclosure action?
2. Whether threatening to collect time-barred installment payments in a nonjudicial foreclosure action is an unfair or deceptive act in violation of Washington's Consumer Protection Act, RCW 19.86?

This Court does not intend its framing of the questions to restrict the Washington Supreme Court's consideration of any issues that it determines are relevant. If the Washington Supreme Court decides to consider the certified questions, it may in its discretion reformulate the questions. *Affiliated FM Ins. Co. v. LTK Consulting Servs., Inc.*, 556 F.3d 920, 922 (9th Cir. 2009). The Clerk of the Court is directed to submit to the Washington Supreme Court certified copies of this Order; a copy of the docket in the above-captioned matter; and Docket Numbers in the above-captioned matter. The record so compiled contains all matters in the pending cause deemed material for consideration of the state law questions 1, 10-13, 16, and 18 in the above-captioned matter. The record so compiled contains all matters in the pending cause deemed material for consideration of the state law questions certified for answer.

All further proceedings in this action are STAYED pending the Washington Supreme Court's response to the certified questions.

IT IS SO ORDERED.

DATED: _____

1
2 UNITED STATES DISTRICT JUDGE
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4 *Presented by:*

5 NORTHWEST CONSUMER LAW CENTER

6 /s/ Amanda N. Martin

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